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Assessing the Economic Impact of Labour Relations Act Reform Options

Ontario Ministry of Labour

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Executive Summary

- When minor procedural changes are included, there are over 40 preferred options for reform of the Labour Relations Act outlined in the Ministry of Labour's Discussion Paper.

- The majority of the preferred options are considered to be cost neutral, either because they will have no measurable cost impact or because minor cost increases in some areas will be offset by savings or benefits in other areas.

- Several preferred options are considered to have the potential to decrease costs for both labour and management, both in the short and long-term. These are options which will reduce litigation costs and improve labour-management relationships.

- In other cases, considerable debate can be expected with respect to the cost-benefit balance of reform proposals. Several preferred options may be argued to have some cost implications, although it is not possible to determine which, if any, of these would result in measurable cost increases. The issue is complicated by the fact that most of these options are designed to enhance the ability of employees to organize, where they choose to do so. The extent to which these options would increase organizing activity is difficult to predict, although based on the experience of other provinces, a slight to moderate increase may be anticipated. Of greater importance is the fact that suggestions that unionization has an adverse impact on productivity and competitiveness have been outweighed by a number of recent studies which suggest the opposite.

- The Ministry of Labour is continuing to examine the experience of the impact of these options in other jurisdictions and will discuss their potential economic impact in detail with affected parties in the course of the consultation process. In particular, some detailed research is being conducted with respect to the replacement workers option. Information received thus far from the government of Quebec indicates that the legislation has a positive impact on collective bargaining and labour-management relations. There appears to be no evidence that the legislation has discouraged investment or resulted in job loss in that province.

- Several surveys of employer perceptions with respect to labour reform have been conducted recently by business lobby groups. These cannot be considered as a realistic measure of economic impact because they considered perceptions of respondents only, and in most cases suggested major labour reforms that are not included in the government's discussion paper.

Assessing the Economic Impact of
Labour Relations Act Reform Options

1. INTRODUCTION

This report outlines the anticipated economic impact of reform options set out in the Ministry of Labour's Discussion Paper "Proposed Reform of the Labour Relations Act", released in November 1991. Professor Noah Meltz, of the University of Toronto, has also provided a preliminary independent assessment of the reform options.

When minor procedural changes are included, the Ministry Discussion Paper outlines over 40 possible changes to the Act (see Appendix 1). Several steps are necessary in determining the potential economic impact of the proposals:

- Distinguishing between reform options in terms of their potential to have a positive, negative or neutral cost impact on employers and trade unions;

- Distinguishing between immediate or short-term cost impacts and those that might be anticipated over the medium to long term;

- Costs and benefits or cost savings can therefore include (a) direct cost increases or decreases (e.g. operating costs, wages and benefits); (b) indirect cost increases or decreases which might arise from an increase or decrease in flexibility or, an increase or decrease in litigation costs; and (c) cost increases or decreases which arise from industrial relations stability or instability, work stoppages etc. and which therefore have some impact on investment;

- Where cost increases or decreases may be anticipated, it is necessary to evaluate the magnitude of these impacts. This process will be assisted by consultations with the parties who will ultimately be affected by actual legislation. Ultimately, these parties are considered to be in the best position to evaluate economic impacts.

While this paper examines the impact of individual proposals, or, in some cases, groups of proposals, it makes no attempt to predict the impact of these proposals on employment levels or the broader issue of investment patterns. These are complex issues which are

not easily subjected to empirical analysis. There are many factors which are currently influencing investment patterns and both the creation and loss of jobs. These include economic restructuring, increased global competition, the Free Trade Agreement, currency exchange rates and interest rate and other federally-driven economic policies. The magnitude of these factors far outweighs any impact the preferred options for reform of the Labour Relations Act can be anticipated to have, either in the short or long term. It would therefore be difficult, if not impossible, to separate-out the impact of the proposed reforms from these broader, and more significant, influences. Indeed, as discussed below, there can be expected to be a countervailing positive impact on the economy resulting from increased employee participation in decisions affecting the workplace.

This paper suggests that a majority of the preferred options are cost-neutral in that they would have no measurable cost impact on employers. Some of the options falling into this category may in fact reduce costs and improve the process of collective bargaining.

It must be recognized that the government is also proposing a number of ways of establishing positive supports which would assist the parties in responding to the challenges of adjustment and change in the workplace. These initiatives could be expected to encourage the development of more co-operative labour-management-government relationships, thereby contributing positively to economic growth.

Other options, around which there can be expected to be some debate about a cost/benefit balance, are examined in some detail. In some cases, reference is made to ongoing research or existing studies. In other cases the need for further research and analysis is identified.

2. PREFERRED OPTIONS ANTICIPATED TO BE COST-REDUCING OR COST-NEUTRAL

A majority of the preferred options for reform are considered to fall into the neutral cost category. Some of these would actually reduce costs for all parties. These options include:

- The proposed Purpose Clause;
- Posting of workplace rights and obligations;
- Restricting petitions to the period prior to the filing of an application for certification;

- Several minor suggested procedural changes to Ontario Labour Relations Board procedures, which are designed to make these processes more efficient and, therefore more cost-effective;

- Providing for continued employee benefits during a strike where the union pays the full premium cost;

- OLRB power to make interim orders;

- Expedited OLRB hearing process where it is alleged that an employee is disciplined or discharged for participating in an organizing drive. While this could be expected to increase OLRB costs, it would result in faster hearings and address a major disincentive to organizing activity;

- Several suggested procedural changes to arbitration procedures and arbitrators' powers which are designed to make the grievance arbitration process more efficient and, therefore more cost-effective.

Many of the options in this cost-neutral category could be argued to hold the potential for more positive labour-management relations over the medium to long-term.

The Ministry of Labour is confident that many industrial relations practitioners and neutrals would support the view that the majority of options outlined in the Discussion Paper would result in no measurable cost increases for employers, or would on balance be cost-neutral in the sense that any costs would be outweighed by benefits. Some of these options are discussed in the remainder of this paper, along with options around which there can be expected to be some debate about the anticipated balance between costs and benefits.

3. COSTS AND BENEFITS OF SIGNIFICANT OPTIONS

This section of the paper discusses the anticipated economic impact of preferred options which can be expected to be the subject of close public scrutiny over the coming months. As noted above, some of these options are anticipated to have no measurable cost impact, while others may be expected to become a focus of attention in view of their perceived impact.

3.1 Options Focusing on Organizing Rights

Options which focus on organizing and the certification process will potentially impact upon currently unorganized employers. Options in this area would not directly impact on those employers already organized.

The options which focus on organizing and certification are the most numerous of those in any category and therefore require detailed consideration. These options would:

- Extend the right to organize to some groups of employees who are not currently permitted to organize. This includes domestics, agricultural employees, front-line supervisors and some categories of employed professionals;

- Make the choice to organize less difficult and less intimidating. Options include the proposed elimination of post-application petitions, expedited OLRB hearings and the reduction of litigation related to "non-pay" allegations which now arise over the payment of the one dollar payment required as proof of support for the trade union. These options would reduce expensive litigation and therefore costs to employers, employees, unions and the public;

- Increase information about workplace rights and obligations by requiring the posting of certain information in the workplace;

- Remove some barriers to organizing currently experienced by part-time employees. The growing trend towards part-time work is one of the major changes taking place in the workplace. Almost 90% of part-time workers are concentrated in the service sector and nearly 75% of part-time workers are women. Part-time workers are among the most vulnerable and low-paid in the economy. The proposed option could be expected to result in some increase to wage and benefit costs if these employees attempted to address their low-wages and employment insecurity through organization and collective bargaining.

- Reduce the threshold level of support required for automatic certification.

While the above options in this area would not directly impact on those employers already organized, some currently organized employers may benefit from the extension of organization in their particular sector because this could be expected to reduce wage-based competition. Wage-based competition is particularly prevalent in low-skill occupations in the service sector and textile industries.

Analysis

Two fundamental difficulties arise in assessing whether or not these approaches would in fact result in direct or indirect cost increases:

(i) Even if it was possible to determine the extent to which the preferred options would result in organizing activity, the extent to which this would have an impact on costs and competitiveness is unclear.

Specialists such as Harvard economist Richard Freeman have concluded that unions do not impede productivity and competitiveness. In fact, unionization has been argued to contribute in meeting these objectives (Freeman and Medoff, 1984).

As Professor Meltz points out: "Collective bargaining puts upward pressure on wages and benefits but at the same time it can create pressure for higher productivity and more innovative work organization. In short, while wage costs may increase, cost savings may also result, facilitated by lower turnover, greater protection and a collective voice in the workplace." (Noah Meltz: The Implications for the Economy of the Proposed Reforms of the Labour Relations Act).

Belman (1991) has made the point that, while few studies of this relationship have been conducted, "These studies provide no evidence that unions per se reduce productivity: the majority of studies indicate that unions are associated with more efficient production". (Belman, Dale 1991; "Unions, The Quality of Labour Relations, and Firm Performance". In Lawrence Mishel and Paula Voos (eds.) Unions and Economic Competitiveness; New York: M.E. Sharp)

Industrial relations experts such as Professor George Adams (now Judge Adams), Professor Paul Weiler and Ray Marshall have similarly argued that collective bargaining can co-exist with, and contribute to, quality, flexibility and productivity in the workplace. In a recent paper, Professor Adams noted that there is substantial room to reform the provisions of the Labour Relations Act, "notwithstanding the evolution of trading blocks and increasing global competition...Many high performing European economies are more efficient than ours while at the same time having a greater trade union presence and more rigorous labour laws."

It is notable that many examples of such reforms proposed by Professor Adams are similar to those outlined above and elsewhere in the Ministry of Labour's Discussion Paper.

(See: G. Adams, "Towards A New Vitality: Reflections on Twenty Years of Collective Bargaining Regulation", Larry Sefton Memorial Lecture, 1991; P.C. Weiler: Governing the Workplace, Cambridge, Harvard University Press: 1990; Ray Marshall, Unheard Voices, New York: Basic Books 1987. See also R.B. Freeman and J.L. Medoff, What Do Unions Do? New York: Basic Books, 1984.)

(ii) It is in fact not possible to determine with any measure of accuracy the extent to which organizing activity would increase if these options were introduced, although some increase could be anticipated. In some cases, (for example front-line supervisors) it is extremely difficult to assess the size of sub-sectors of the labour force. Even where this information is known, there are no means of determining to what extent the preferred options would result in organizing efforts by employees in those sub-sectors. While some models could be formulated to predict these changes, assumptions made, and the weighting ascribed to certain predictive factors could wildly influence results in many directions.

A review of the experiences of other Canadian provinces where these options already exist suggests that the impact on organizing in Ontario would be slight to moderate. While several other provinces permit agricultural employees, domestics, professionals and supervisors to organize, the actual level of organizing

has been very low. This is particularly true of supervisors in the private sector. This may account for the fact that Ontario's level of unionization is similar to that of other provinces in spite of the current restrictions in the Act.

3.2 Collective Bargaining and Labour Disputes

Options in this area considered below include increased access to first contract arbitration, restrictions on the use of replacement workers and providing access to third-party property for the purpose of organizing and picketing.

First Contract Arbitration

The proposed availability of first contract arbitration after the parties have been in a legal strike or lockout position for 30-days would reduce the incidence of lengthy first-contract strikes and assist the parties in establishing the important first-contract with a minimum of acrimony. This could be anticipated to have a positive longer-term impact on labour-management relationships.

It can be argued that the automatic availability of arbitration after the 30-day threshold period could have a chilling effect on collective bargaining in that one or both parties may be prepared to wait for a binding third-party decision as an alternative to engaging in real bargaining. The suggested 30-day threshold would be a strong disincentive to this practice in that the parties would face the consequences of a relatively lengthy work stoppage in the intervening period.

Replacement Workers Proposal

One of the difficulties associated with assessing the impact of this proposal lies in distinguishing between its undisputable symbolic value and the actual cost impact it is likely to have on employers. For example, 95% of collective agreements in Ontario are settled without a work stoppage. During those work stoppages which do occur, many employers do not operate at all, or operate for a short period with managerial employees to ship finished goods, prior to shutting down operations. The remainder - a very small minority - of employers use replacement workers.

A further factor for consideration is the extent to which the loss of employer flexibility to operate during a work stoppage would be offset by improvements in collective bargaining relationships. As pointed out by Professor Meltz, the ultimate impact of this proposal depends on an assessment of the overall experience with this type of provision and how the relationship between unions and employers is affected. Quebec's 13-year's of experience with a replacement worker provision makes such an analysis possible.

Analysis and Ongoing Research

The government's preferred option is in fact modelled on that used successfully in Quebec since 1978. From the outset, the Quebec legislation resulted in a decline in picket line violence and hostility. There is mixed evidence about the impact of the legislation on the incidence and duration of strikes during the initial years of its operation. The Quebec Department of Labour reports, however, that more recently, there has been a decline in both the number and length of disputes, which is at least in part attributable to the legislation itself.

With respect to impact on investment, Mr. Louis Garant, Director of Labour Relations Research at the Department of Labour in Quebec has stated publicly that since the Quebec law was introduced, Quebec's economy has performed well and there is "absolutely no evidence of increased enterprise closure or capital losses since the adoption of the law". Mr. Garant has also made the point that new and major businesses have located in Quebec since the law went into effect.

Discussions are continuing with the government of Quebec on the impact of the law in particular sectors of the economy in that province.

The Office of Collective Bargaining Information is conducting an analysis of strikes and lockouts in Ontario. This will include a study of the extent to which replacement workers are used, by sector and size of workplace. This study will be completed by December 1991 and will be supplemented by discussions on this issue in the course of the consultation process.

Access to Third-Party Property for Organizing/Picketing

Again, it is necessary in approaching this option to distinguish the symbolic issue of providing access to third-party property from the actual cost impact of the option. The impact of the options will be discussed with those affected in the course of consultations. Among those factors taken into consideration will be:

- The ability to picket a store directly through access to third-party property could be expected to result in some costs to the store owner, although these are costs which are currently avoided only by virtue of the store's physical location. This option would result in the equal application of the Act to stores both on, and off, third-party property;

- Providing access to the property of a third-party could remove organizing/picketing activity from the front entrance of third-party properties. This would potentially reduce inconvenience to the public and reduce current costs to other stores which may now arise from picketing of the street entrance to the mall.

3.3 Preserving Collective Bargaining Rights

The most substantial change proposed in this area relates to the possible extension of successor rights protection where work is contracted-in or tendered in the contract service sector. Other options in this category can be expected to have a limited impact in special situations (e.g. transfer from federal to provincial jurisdiction) and mostly involve the extension of well-accepted rights and principles under the Act.

Successor Rights in the Contract Service Sector

This combined package of amendments to the Labour Relations Act and Employment Standards Act is specific to the cafeteria, cleaning and related services in the contract service sector only. The cost impact of these proposals was discussed with employers, unions and building operators during intensive consultations in 1990. This resulted in a compromise involving greater employment security and wage/benefit protection for employees, and reduced severance liability for employers.

These proposals would reduce the ability of owners to reduce costs, and contractors to compete, simply by lowering wage and benefit costs. The impact here would therefore be measured in terms of reduced operational flexibility as opposed to an increase in direct or indirect costs. This loss of flexibility must nevertheless be weighed against the fact that vulnerable employees would benefit from important protection against job loss and wage cuts and that employers' severance liabilities would be substantially reduced.

4. RECENT SURVEYS CONDUCTED BY BUSINESS LOBBYISTS

Several surveys of employer perceptions with respect to labour reform have been conducted recently by business lobby groups over the past four months. These cannot be considered as a realistic measure of economic impact because they considered perceptions of respondents only, and in most cases suggested major labour reforms that are not included in the government's discussion paper. These surveys are therefore misleading and could, in themselves, have a negative economic impact.

For example, seven out of ten of the legislative changes suggested to business respondents in the All Business Coalition Survey released in October 1991, are not mentioned in the Ministry of Labour's Discussion Paper. This is of concern because of the study's conclusion that many thousands of jobs are at risk as a result of the proposed labour reforms (the reforms suggested by the authors).

The authors of the All Business Coalition Survey acknowledge that "the responses in the second part of the survey, could in some cases be coloured by the respondents' desire to paint a very negative picture of the impacts in order to influence the results of the study and perhaps the course of the legislation chosen by the government".

5. CONCLUSIONS

The majority of the preferred options are considered to be cost neutral, either because they will have no measurable cost impact or because minor cost increases in some areas will be offset by savings and benefits in other areas.

Several preferred options are considered to have the potential to decrease costs for both labour and management, both in the short and long-term. These are options which will reduce litigation costs and improve labour-management relationships.

In other cases, considerable debate can be expected with respect to the cost-benefit balance of reform proposals. Several preferred options may be argued to have some cost implications, although it is not possible to determine which, if any of these would result in measurable cost increases. There are also identifiable benefits associated with some options in terms of increasing protection for employees and potentially improving labour-management co-operation and productivity. The issue is complicated by the fact that any evidence that unionization has an adverse impact on productivity and competitiveness has been outweighed by recent studies which suggest the opposite.

Industrial relations experts such as Professor George Adams, Professor Noah Meltz, Paul Weiler and Ray Marshall suggest that collective bargaining can co-exist with, and contribute to, productivity, competitiveness and innovation in the workplace.

In addition the issue of direct cost impact becomes less significant when consideration is given to the fact that the quality of labour-management relationships and partnerships is a primary determinant of outcomes in the workplace, cost-related or otherwise.

The Ministry of Labour is continuing to examine the experience of the impact of the reform options in other jurisdictions and will discuss their potential economic impact in detail with affected parties in the course of the consultation process. In particular, some detailed research is being conducted with respect to the replacement workers option.

Ontario Ministry
of Labour

November 1991

LIST OF PREFERRED OPTIONS FOR REFORM OF THE LABOUR RELATIONS ACT

1. *PURPOSE CLAUSE*

Replace the preamble with a purpose clause that would reflect the underlying objectives of the *Act* more explicitly (as in the *Canada Labour Code*), and provide greater guidance to the OLRB in exercising its powers under the *Act*. The purpose clause would set out the following objectives:

- To ensure that workers can freely exercise the right to organize by facilitating the right of employees to choose, join and be represented by a trade union of their choice and to participate in the lawful activities of the trade union;
- To improve the terms and conditions of employment, employee participation and workforce skills through collective bargaining;
- To enhance the ability of employers and trade unions to adapt to changes in the economy and the workplace;
- To promote harmonious relations, industrial peace and the ongoing settlement of differences arising in collective bargaining and under collective agreements between employers and trade unions; and
- To provide for effective, fair and expeditious resolution of disputes requiring third-party intervention or adjudication.

2. *THE RIGHT TO ORGANIZE*

- Maintain the managerial exclusion but amend it to permit supervisory employees to organize and bargain collectively, and require them to be placed in a separate bargaining unit unless the parties agree otherwise (as in B.C., Saskatchewan, Manitoba and federally).
- Allow organizing in those parts of the agricultural and horticultural sectors which utilize industrial/factory methods of production, and in the landscape gardening sector (as in most other Canadian jurisdictions).
- Remove the current exclusion of domestics from coverage under the *Act* (as in seven other provinces).
- Remove the current exclusion of professionals from coverage under the *Act*. The question of whether professionals should be included in the same bargaining unit as other employees would be determined by the OLRB on a case-by-case basis (as in all provinces except Alberta, Nova Scotia and P.E.I.).
- Permit security guards to join the trade union of their choice, but allow the OLRB to place security guards in a separate bargaining unit where appropriate (as in all other jurisdictions).

3. *ORGANIZING ACTIVITY AND THE CERTIFICATION PROCESS*

Organizing Activity

- Require that the OLRB commence a hearing with a fixed time of the filing of a complaint arising from discipline or discharge during or related to organizing drive (possibilities include seven days after a complaint is filed or seven days after notice of a complaint is received by an employer The OLRB would also be required to sit on consecutive hearing days until the hearing is completed and issue a decision within 48 hours the completion of the hearing or as soon as is reasonably practical.
- Provide a right to engage in lawful organizing activity by trade union organizers and employees on third-party premises or property open to the public, or to which the public usually has access
- Require a permanent posting of employee and employer rights under the *Act* in all workplaces and in the language of the workplace. Require a separate posting advising employees of their rights when an unfair labour practice complaint is made during an organizing campaign, whether th complaint is against an employer or a trade unior

The government has also raised for discussion the question of access to information about employees and t employer property during an organizing campaign. The government has not identified preferred options in these areas, nor decided on the extent to which reforms are required.

The Certification Process

- Consider evidence of membership in a trade unior only as of the date of application for certification. As a result, post-application petitions and revocations of membership evidence would no longer be permitted (as in all other jurisdictions).
- Provide that the signing of a membership card is sufficient evidence of support for a trade union, without the need to make a $1.00 payment (as ir Manitoba and Saskatchewan).
- Modify the existing OLRB power to certify a trade union in order to remedy an unfair labour practice, by removing the "adequate membership support" requirement while retaining the requirement that the true wishes of the employees cannot be ascertained, and by applying the remedy to violations of the *Act* by persons acting on behalf of an employer.
- Provide that the level of support required for certification based on membership cards be an absolute majority of employees in the bargaining unit (as in Newfoundland, P.E.I., Quebec, Saskatchewan and federally), and that the level of support required for a vote be 40%.

the list of the employees in the employer's proposed bargaining unit following receipt of that list from the employer.

4. *STRUCTURE AND CONFIGURATION OF BARGAINING UNITS*

- Retain the OLRB's discretion to determine the appropriateness of the bargaining unit at certification, but provide that the OLRB should consider the need to facilitate employees' access to collective bargaining in making this determination.

- The OLRB should be required to include part-time and full-time employees in a single bargaining unit where the trade union seeks certification of both groups of employees and has overall majority support. Where the trade union does not have overall majority support, but has majority support for only one group of employees, the OLRB would be required to certify a separate full or part-time unit consisting of that group of employees (as in most other jurisdictions).

The government has also raised for discussion the possibility of allowing the Board to consolidate two or more existing bargaining units of the same employer (as in B.C. and federally). The government has not identified a preferred option in this area nor decided on the extent to which reforms are required.

5. *NEGOTIATING THE FIRST COLLECTIVE AGREEMENT*

- On application by either the employer or trade union, provide for the settlement of a first collective agreement by arbitration where the parties have been in a legal strike/lockout position for more than 30 days and have been unable to reach an agreement (as in Manitoba and Quebec).

- Provide employees with just cause protection following certification, and under first and subsequent collective agreements (subject to the right of the parties to agree to limit the application of this protection to probationary employees for up to 90 calendar days). (As in B.C. and Manitoba).

6. *IMPROVING COLLECTIVE BARGAINING AND REDUCING INDUSTRIAL CONFLICT*

- During a labour dispute, prohibit the employer from using the following persons to perform the work of striking or locked-out employees at the establishment subject to the strike or lockout (similar to Quebec):

  - Any persons (including employees, managers, volunteers, contractors and persons supplied by third party employers) hired or engaged between the day notice to commence bargaining is given and the end of the strike or lockout;

  - Striking or locked out employees;

  - non-supervisory employees, whether employed at the struck location or elsewhere; and

  - Managerial and supervisory personnel wh are not employed at the struck location.

The government recognizes that it is important to consider possible exceptions to the proposed prohibition on the use of replacement workers in order to provide fo the continued performance of certain services in the event of a work stoppage.

- Require employers to continue employee benefit coverage during a strike or lockout where this is requested by the trade union, and the union pays the employees' and employer's share of the relevant premiums (as in Alberta, Manitoba and Newfoundland).

- Provide employees with just cause protection during a labour dispute.

- Repeal the existing limitations on the right to return to work during a strike (s.73). Where the employer and trade union cannot agree on a return to work protocol, employees should have the right to return to work at the conclusion of a labour dispute, on the basis of their seniority at the time the dispute began, so long as the senior employee is able to perform the available work (similar to Manitoba and Quebec).

- Where the employer and trade union voluntarily negotiate provisions allowing employees to refuse to cross lawful picket lines or to handle struck work, provide that this activity does not constitute a strike under the *Act* (as in other jurisdictions).

- Permit employees to picket on third-party propert to which the public ordinarily or customarily has access.

The government also intends to conduct a study of the law of picketing and to make recommendations for reform, although that review will not form part of the current labour relations reform exercise.

7. *PRESERVATION OF BARGAINING RIGHTS*

- Provide that the purchaser of a business becomes a party to any proceedings (as if the purchaser were the vendor), including collective bargaining, that are in effect on the date a business is sold, under the *Labour Relations Act* and under the *Hospital Labour Disputes Arbitration Act* (as in Manitoba and federally).

- Extend the successor rights protection of bargaining rights and collective agreements under Section 63 of the *Act* to situations in which a sal or transfer is from the federal to provincial jurisdiction.

- Amend the related employer provision to confirm the OLRB's authority to declare separate division: or operations of the same employer to be a single employer for the purposes of the *Act*.

- Implement amendments dealing with *contracting-in* and contract tendering developed in

consultation with employers, building owners and trade unions *in the contract service sector*.

8. *THE GRIEVANCE ARBITRATION PROCESS*

- All collective agreements should be deemed to include a provision incorporating the employment-related prohibitions set out in the *Human Rights Code*.

- Confer express power on arbitrators to interpret and apply other employment-related legislation where such legislation is relevant to the administration, interpretation, application or alleged violation of a collective agreement, regardless of whether or not the terms of the agreement are consistent with such legislation (as in B.C. and Nova Scotia).

- Make the arbitration process more effective and expeditious (similar to B.C. and Manitoba) by:

  - Providing arbitrators with the authority to hear and decide the real substance and merits of the issues in dispute under the collective agreement.

  - Providing arbitrators with the authority to determine all questions of fact and law in connection with arbitration proceedings.

  - Repealing the current provision allowing the parties to override the authority of the arbitrator to extend time limits.

  - Providing arbitrators with the authority to make pre-hearing production orders and orders requiring particulars.

  - Providing arbitrators with the authority to make orders and directions as required in order to expedite arbitration proceedings, so long as the parties' right to a fair hearing is not compromised.

  - Mandating the use of single arbitrators rather than tripartite arbitration boards, unless the parties agree otherwise.

  - Providing arbitrators with the authority to enforce settlements.

9. *ADJUDICATION BY THE ONTARIO LABOUR RELATIONS BOARD*

- Provide the OLRB with the authority to grant interim orders or relief on such basis and terms as the Board considers appropriate where there has been a complaint that the *Act* has been contravened (as in Manitoba, Saskatchewan and Alberta).

- Provide the OLRB with the authority to settle or determine one or more of the terms of a collective agreement where the exiting duty to bargain in good faith has been violated, to the extent required to remedy the violation.

- Provide the OLRB with the authority to remit a matter to a board of arbitration where this is required to remedy an unfair labour practice.

- Provide the OLRB with the authority to enf ce complaint alleging non-compliance with the written terms of any unfair labour practice settlement as though it were a complaint under the *Act*.

- Allow the Minister to refer any question to the Board necessarily incidental to the exercise of power or the performance of any duties or responsibilities under the *Labour Relations Act* the *Hospital Labour Disputes Arbitration Act* by the Minister, and require the Board to report to the Minister on the question.

- Provide the OLRB with the authority to alter, modify or restrict the operation, application, or terms of a collective agreement in order to determine seniority issues where two groups of employees in different bargaining units are intermingled (including sale of a business).

10. *ADJUSTMENT AND CHANGE IN THE WORKPLACE*

The government's proposals in this area focus on encouraging cooperation and partnership between labou and management in responding to pressures associated with new work organization, technological change and changing skill requirements. They include:

- ***A Work Organization and Adjustment Service.*** The government is proposing a new service whi would assist employers and unions in respondinc to changes in the workforce, technology and the economy and would provide expert advice, mediation service, brokerage and information.

- ***A Forum for examining workplace flexibility, productivity and adjustment.*** This would bring labour and management together with government at the provincial level to develop broad strategies for responding to restructuring and adjustment issues. Two approaches suggested are a special task force of the Premier's Council and a special commission whic would report to the Legislature.

- ***Regulating the adjustment process in mass layoffs.*** These proposals follow Ministry of Labour consultations on this issue early in 1991, and include: requiring that more information be provided to the Ministry of Labour and workers regarding adjustment measures; creating a statutory duty to bargain in good faith towards a labour adjustment plan whenever an employer is planning a closure or mass layoffs, with remedie focusing on ensuring that real discussion takes place at the appropriate time rather than on imposing an adjustment plan; and the development by the government of a non-mandatory Code of Best Adjustment Practice.

The government will *not* deal, at this time with reforms of statutory notice and severance pay requirements in mass layoffs, establishing new requirements for notice of, and bargaining over, technological change; or mechanisms for reviewing alternatives to plant closures and othe mass layoffs.